

MATTHEW PETERS 1/7/2011

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FRANK L. SNIDER, III,
PLAINTIFF,
vs.
CITY OF CAPE GIRARDEAU, ET AL.,
DEFENDANTS.

Case No. 1:10-CV-100

DEPOSITION OF MATTHEW PETERS
TAKEN ON BEHALF OF THE PLAINTIFF

JANUARY 7, 2011

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QUESTIONS BY MR. DOTY

5

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Deposition Exhibit 3

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(Exhibits attached)

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5 FRANK L. SNIDER, III

6 PLAINTIFF,

7 vs. Case No. 1:10-CV-100

8 CITY OF CAPE GIRARDEAU, ET AL.,

9 DEFENDANTS.

10

11 DEPOSITION OF MATTHEW PETERS, produced, sworn
12 and examined on behalf of the Plaintiff, between the
13 hours of 10:15 and 11:05 at the offices of Spradling
14 & Spradling, 1838 Broadway, in the City of Cape
15 Girardeau, State of Missouri, on the 7th day of
16 January, 2011, before Linda DeBisschop, CCR and
17 Notary Public within and for the State of Missouri.

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1 A P P E A R A N C E S

2

3 FOR THE PLAINTIFF:

4 Mr. Grant R. Doty

5 ACLU of Eastern Missouri

6 454 Whittier Street

7 St. Louis, Missouri 63108

8 (314) 652-3114

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10 FOR THE DEFENDANTS:

11 Mr. A. M. Spradling, III

12 Spradling & Spradling

13 1838 Broadway

14 Cape Girardeau, Missouri 63702

15 (573) 335-8525

16 spradlaw@swbell.net

17 Also present: Michael Hill, ACLU

18 Carl Kinnison, Chief of Police

19

20 ALSO PRESENT:

21 Linda DeBisschop, CSR

22 Midwest Litigation Services

23 711 North Eleventh Street

24 St. Louis, Missouri 63101

25 314-644-2191

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1 IT IS HEREBY STIPULATED AND AGREED by and between
2 counsel for Plaintiff and counsel for the Defendant
3 that this deposition may be taken in shorthand by
4 Linda DeBisschop, CSR and Notary Public, and
5 afterwards transcribed into typewriting, and the
6 signature of the witness is waived

7

8 *****

9

10 MATTHEW PETERS,
11 of lawful age, being produced, sworn and examined on
12 behalf of the Plaintiff, deposes and says:

13

14 EXAMINATION

15 QUESTIONS BY MR. DOTY:

16 Q Could you give us your name and spell your
17 last name?

18 A Matthew Peters. P-E-T-E-R-S.

19 Q Have you been to a deposition before?

20 A No.

21 Q Do you know what to expect here? I mean, we
22 will be asking questions about the case?

23 A Kind of.

24 Q There are no trick questions for you. Have
25 you taken any medication or anything that would

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1 prevent you from answering questions?

2 A No.

3 Q And you've talked with your attorney or
4 other people in preparation for this. Do you have a
5 sense of what you will be asked in these questions?

6 A Yes.

7 Q When did you first become aware of the
8 Missouri's flag burning statute? Excuse me, flag
9 desecration statute.

10 A When did I become aware of it?

11 Q Yes.

12 A I would say in the academy. Just flipping
13 through the book I came across it.

14 Q And what book is this?

15 A Like a hand-held, it's what we call the blue
16 book. It's a guide book for Missouri state laws.

17 Q And in the academy, is this a city academy
18 or is this a state academy?

19 A It's ran by the university here.

20 Q And the university here is?

21 A Southeast Missouri State University.

22 Q When we talk about the production of a
23 document, we talk about police officers and
24 attending different places. Do all police officers
25 attend the same academy or is it possible they go to

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1 different academies?

2 A It's possible they go to different
3 academies. They didn't cover this necessarily.

4 It's just that's where you get your blue book. I
5 just saw it flipping through it I saw it. So I kind
6 of remembered it, but it's not like they covered
7 that individually. I just know it is in that book.

8 Q And is it just a listing of the statutes or
9 does it say here is speech statutes?

10 A No. It is Missouri criminal law basically.
11 It's just a quick reference. It kind of gives you a
12 brief description of what, I guess, justifies that
13 particular law to be broken.

14 Q Would all the police officers, if they went
15 to different academies, receive this blue book?

16 A I don't know what anybody else receives.

17 Q But SEMO does?

18 A Yes.

19 Q I mean, we can get this perhaps with the
20 chief. Do you know how many of the officers go to
21 SEMO? Is that the standard most common place that
22 you all go?

23 A I have absolutely no idea.

24 Q Does it just list the language of the
25 statute in this blue book?

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1 A I don't understand.

2 Q Let's talk about, do you recall the terms of
3 the statute? I mean, what is criminal in flag
4 desecration? What would be considered criminal?

5 A I can't recite it specifically, no. I mean,
6 I don't even want to give it a shot.

7 Q Would you know it if you saw it though?

8 A I wouldn't know it if that's exact. Unless
9 it was from that particular book, I don't know. I
10 mean, I don't understand your question exactly.

11 Q We just drove down from St. Louis today and
12 it was Broadway or whatever road we took off of 55
13 and lots of flags flying. We drove by Osage Center.
14 Do you know Osage Center there on the right side?

15 A Kingshighway.

16 Q So driving down Kingshighway and on the
17 right side we see Osage Center and we drive in and
18 look at their flag and it is terrible. It is
19 tattered. It is ripped. Do you go in and issue a
20 citation based on your knowledge of the statute for
21 that?

22 A I would have to reference that book again.
23 As far as I believe the way it's written in that
24 book is that a person basically purposely tears it
25 up or defaces it in some way. I don't think by

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1 nature, which is what I would assume there, doesn't
2 cover nature tearing it up.

3 Q So it's possible that a flag could be ripped
4 and wouldn't violate the statute based on your
5 knowledge?

6 A Absolutely.

7 Q Let's talk about the charge. Do you have a
8 charge book as you would write out a charge for
9 someone that you would consult in writing out what
10 they violate?

11 A That's probably what we're talking about.

12 Q The blue book?

13 A Yes.

14 Q So you have that access in your office?

15 A Yes.

16 Q You consulted that on the day that you
17 charged him with flag desecration?

18 A The day that I applied for the warrant, yes.

19 Q You pulled out the blue book?

20 A Yes.

21 Q And you read the statute?

22 A Yes.

23 Q You arrived back at the station after this
24 incident?

25 A Yes.

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1 Q And you went to the blue book and said I
2 need to look up flags?

3 A It was brought up to my attention because I
4 originally wrote a littering ticket because he had
5 thrown the flag out in the middle of the street and
6 it was brought to my attention of Missouri's State
7 Statute. Like I said, we didn't really cover that.
8 It was just kind of me flipping through that book.
9 I vaguely remembered it and I said, well, let me
10 look it up and so that's when I looked it up.

11 Q So let's start with who brought it to your
12 attention?

13 A I can't tell you exactly who brought it to
14 my attention.

15 Q Prosecutor Swingle?

16 A No.

17 Q But it was another police officer?

18 A Yes.

19 Q Was it the chief?

20 A No, probably not at that time. I don't
21 remember who was there. It was not the chief.

22 Q Do you have logs though? I mean, we could
23 figure out who was at the station that day?

24 A It could have been between two platoons that
25 were on. I have no idea. I can't remember exactly

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1 who reminded me of this.

2 Q You drove back to the station?

3 A Yes.

4 Q And were you thinking at that point I need
5 to look up flags?

6 A I don't know what I was thinking at that
7 time. I just wrote a littering ticket and was
8 coming back to the station with evidence. I had to
9 put the flag in evidence.

10 Q And you got back to the station?

11 A Yes.

12 Q So you didn't think about flag desecration
13 at this point?

14 A I don't know what I thought then. I mean,
15 it's tough to say what I thought a year and a half
16 ago coming back to the station after a particular
17 call.

18 Q When you were talking to Mr. Snider, what
19 did you ask him?

20 A When I first went out there?

21 Q I'm just looking at --

22 A Well, I went out there twice. That's why
23 I'm asking.

24 Q The first time not to go arrest him. The
25 first time when you went there for -- what was the

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1 reason you went out there for, what was the call?

2 A The dispatch was a dispute between
3 neighbors.

4 Q So no reference to the flag at this point?

5 A No. I had no idea.

6 Q So you arrived on the site. Did you talk to
7 the neighbor?

8 A No.

9 Q You didn't talk to her?

10 A No.

11 Q And so what was the first thing that you
12 did? You went to talk to Mr. Snider? Did you see
13 the flag?

14 A I saw the flag and I went and picked it up.

15 Q And then you talked to Mr. Snider?

16 A Well, at that point I had no idea what had
17 happened and I had no idea who Mr. Snider was. He
18 was the closest there, so I asked him what was this
19 doing out there. I had no idea if he was involved
20 in the dispute or he was not involved in the
21 dispute.

22 Q Was your inclination that it was him that
23 put the flag there?

24 A No, I had no idea.

25 Q We will put it into evidence, but I think

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1 you all provided it, the incident report.

2 (Deposition Exhibit Number 1

3 marked for identification.)

4 Q (By Mr. Doty) So you have Exhibit 1 which
5 I've handed you. Could you identify that for us?

6 A Yes. It looks like the police report.

7 Q Is it the police report that you filled out?

8 A Yes, sir.

9 Q At the first?

10 A At the first incident.

11 Q When you arrived?

12 A Yes, on October 20.

13 Q You arrived for the dispute. So what did
14 you talk to him about? What did you ask him?

15 MR. SPRADLING: Snider?

16 Q (By Mr. Doty) Yes, I'm sorry, Mr. Snider.
17 What did you ask Mr. Snider?

18 A I asked him why the United States flag was
19 laying in the road.

20 Q And what did he say?

21 A Snider stated he had torn up the flag and
22 threw it in the road.

23 Q And did he say why he did that?

24 A I asked him why he would do such a thing and
25 he replied, because my lighter didn't work.

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1 Q Did he give a reason for his --

2 A Snider continued to say he hated the United
3 States because it was the country's fault he could
4 not find a job.

5 Q So he was making some expressive statement?

6 A Yes.

7 Q And, at this point, did you think that he
8 had broken -- I mean, did the flag desecration law
9 of Missouri come to mind at that point?

10 A No.

11 Q So you issued him a citation?

12 A I did.

13 Q And then you went back to the station?

14 A Right.

15 Q And someone suggested, actually, I think
16 your words were it was quote brought to my
17 attention?

18 A Right.

19 Q And your testimony is you don't remember?

20 A I honestly can't tell you. I have no idea.

21 Q But it was another police person?

22 A Yes.

23 Q And it wasn't Prosecutor Swingle?

24 A No.

25 Q And this was all that same day?

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1 A Yes.

2 Q I mean, this wasn't you coming back the next
3 day because the arrest happened when?

4 A On the 23rd of October.

5 Q So that was three days later?

6 A Yes.

7 Q When did you write your probable cause
8 statement?

9 A I don't know. I would have to look at it.

10 (Deposition Exhibit Number 2
11 marked for identification.)

12 Q (By Mr. Doty) So could you tell us what
13 this is? We've handed you Exhibit 2.

14 A This is a probable cause statement.

15 Q And this is something that you drafted
16 yourself?

17 A Yes.

18 Q Someone didn't draft it for you and then you
19 signed it?

20 A Correct.

21 Q Did someone dictate to you what you were
22 going to put in this statement?

23 A No.

24 Q No one stood over your shoulder or e-mailed
25 you or suggested this --

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1 A No.

2 Q We now have implicated the statute, correct?

3 A Yes.

4 Q So your desecration of the U.S. flag. What
5 made you decide to do Missouri State Statute versus
6 your city ordinance that outlaws the same thing?

7 A I can't tell you what I was thinking back on
8 October 20.

9 Q Did you consider the ordinance as an
10 alternative?

11 A No. Actually, I probably was a little more
12 familiar with the state statute book than the
13 ordinance book.

14 Q Did you know there was an ordinance that
15 mirrored it?

16 A I don't know what I knew at that time. I
17 don't know. I can't tell you what I knew at that
18 time or not. I knew of the state one just because I
19 flipped through that book.

20 Q But at that time you said I'm going to write
21 up the statute. I mean, you didn't say I've got an
22 ordinance, I've got the city, let's make a call?

23 A No.

24 Q Have you looked at the city ordinance?

25 A Yes.

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1 Q So do you know it outlaws basically the same
2 thing?

3 A Yes, it pretty much mirrors the state.

4 Q Do you recall the differences?

5 A No, I don't know. Like I said, this is one
6 case of hundreds that I've dealt with even since
7 then.

8 Q But your job is to know the law?

9 A Correct.

10 Q So if I went outside here and burned a
11 Missouri State flag, would you arrest me?

12 A I would have to look up the ordinance or the
13 state statute. Right now, I guess there is a
14 Supreme Court judgment, so it would be pretty silly.

15 Q Okay.

16 A I mean, there are other ordinances that
17 would cover what you're doing if you were out there
18 burning a flag as far as negligently burning out in
19 the city street.

20 Q But, I mean, have you been told not to
21 arrest people for burning the flag now?

22 A Have I been told not to, no.

23 Q And charging them with Missouri statute?

24 A No.

25 Q You've not been told that?

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1 A No.

2 Q So why wouldn't you arrest me? I mean, you
3 said it would be silly. I'm not disagreeing with
4 that assessment.

5 A I wouldn't put myself in this position
6 again. If there was another law broken --

7 Q You would try to find another law?

8 A I have to enforce the law whatever is on the
9 books.

10 Q Do you know then is the state law on the
11 books?

12 A As far as I know it is still in, so I guess
13 I would have to. I can't say what I would do. It's
14 not happening, so I can't hypothetically speak.

15 Q But, I mean, if your interest is avoiding a
16 situation like this, have you not talked to other
17 people about this?

18 A I would take it as the situation arises and
19 call somebody in my chain of command.

20 Q So no one in the chain of command has
21 articulated this problem of the flags?

22 A No.

23 MR. SPRADLING: Let me interpose an
24 objection to the question because there are certain
25 issues relative to burning a flag that may be

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1 expressive speech that may be part of the Supreme
2 Court decision, but there may be other factors that
3 may not make it expressive speech that may come in
4 to implicate the statute or the ordinance.

5 It's a hypothetical question based on
6 insufficient facts that I think an officer has to
7 determine what exists at the time. That's why I
8 think he's having a problem and I just interpose the
9 form of the question.

10 MR. DOTY: I will make it more clear.

11 Q I am expressing my opinion when I go outside
12 and I am burning the Missouri state flag or the
13 American flag because I'm mad. I'm mad at the
14 government. I'm mad at the police department. Do
15 you arrest me?

16 A Once again, I mean, it's hypothetical.
17 Where are you and what are the circumstances? Is
18 there a burn ban in effect? There are a lot of
19 other factors.

20 Q (By Mr. Doty) Would you charge me though
21 for under the state statute?

22 A I would go back and type up a report of the
23 incident and let the prosecutors decide what they
24 want to do with it.

25 Q Is that what happened here?

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1 A That is not what happened here. I brought
2 up a probable cause statement. I would have to seek
3 further advice from my chain of command.

4 Q Because of what has happened here?

5 A Because of what's going on here.

6 Q But no one in your chain of command has
7 told --

8 A Has told me not to do this?

9 Q No one has sat down and said every police
10 officer be advised that the flag burning statute in
11 Missouri is, how would you describe it, is it
12 questionable?

13 A I don't know.

14 Q Is it constitutional?

15 A That's not my decision whether it's
16 constitutional or not.

17 Q Are you required to enforce Missouri laws?

18 A Yes.

19 Q Are you required to enforce city statutes?

20 A Yes.

21 Q Federal law?

22 A Yes.

23 Q Are you required to enforce those laws if
24 you know them to be unconstitutional?

25 A I guess I really haven't run across that.

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1 Q I'm asking you right now. You know that the
2 law is unconstitutional. Are you required to
3 enforce a law that is on the books? It's a yes or
4 no.

5 A I mean, I don't know. I'm trying to think
6 of a situation or a law that meets that criteria.

7 Q Flag burning?

8 A I don't know. I mean, I can't answer that
9 question. I don't know. I mean, if it's a law, if
10 it's a black and white law whether it is Federal,
11 state or city ordinance, then I have to enforce the
12 law.

13 Q And you're not concerned that it's
14 unconstitutional or not. Your only concern is that
15 it is black and white on the books?

16 A Well, to me, if it's unconstitutional, then
17 why is it a law? I would have to seek further
18 advice. If there's a conflict between the two and I
19 know of that conflict, I would have to seek further
20 advice. I would still type up a report and then
21 seek further advice from somebody who knows more
22 about it than I do.

23 Q And did you do that?

24 A Would I make an arrest right then, no. I
25 would type it up and seek further advice.

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1 Q Did you do that in this case?

2 A I typed it up and sought further advice,
3 yes. I typed up a probable cause statement.

4 Q Who did you seek further advice from?

5 A The prosecuting attorney.

6 Q So you did talk with them?

7 A Via a probable cause statement.

8 Q So that's where you sought advice? Did you
9 know flag burning is allowed?

10 A No.

11 Q Constitutionally protected?

12 A No, I did not.

13 Q It wasn't in your training?

14 A No.

15 Q Are you aware of the First Amendment?

16 A Yes.

17 Q And it allows people to do what?

18 A Freedom of speech.

19 Q Did you think burning of the flag to express
20 anger at the U.S. government constituted free
21 speech?

22 A No, not at that time.

23 Q Do you now realize that?

24 A I understand the Supreme Court's decision in
25 1989.

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1 Q So now you know it's unconstitutional?

2 A Right.

3 Q Do you have an obligation to enforce that
4 law? You would consult?

5 A I would consult.

6 Q So you talked to Prosecutor Swingle?

7 A Yes.

8 Q Tell me what he said?

9 A I didn't talk to him. I said I had
10 communication with him via the probable cause
11 statement.

12 Q So you didn't physically meet with him?

13 A No.

14 Q No email exchange with him?

15 A No.

16 Q No telephone conversation?

17 A Not that I can recall.

18 Q You sent him this?

19 A Right.

20 Q And then what happens next?

21 A It's up to him whether he wants to file on
22 it or not or bring it to a Judge to issue a warrant
23 or not. This was basically my facts of the case,
24 what happened and then he can take it from there
25 whether he wants to throw it aside and be like, no,

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1 it's okay for him to do that and that would be the
2 end of it or if he wants to take it to a Judge to
3 issue a warrant.

4 Q And you wrote this up. I'm looking at the
5 probable cause statement now which is Exhibit 2.

6 A Okay.

7 Q What did you have probable cause to think
8 that Mr. Snider did?

9 A Desecrated the United States flag.

10 Q So you wrote it as a violation of the state
11 statute?

12 A Yes.

13 Q And then what did you hear back from
14 Mr. Swingle?

15 A I know that there was a warrant issued for
16 his arrest for that particular crime. I didn't hear
17 back directly. He didn't call me.

18 Q So there was not an exchange. You just got
19 the warrant?

20 A Yes.

21 Q Is it common then that the arresting officer
22 then does the warrant or does the arrest?

23 A Yes.

24 Q That's not uncommon?

25 A No.

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1 Q What was your emotional feeling about his
2 attempt?

3 A I have no idea what my emotional feeling was
4 back on October 20 of '09.

5 Q Did you ask him why you would do such a
6 thing?

7 A Yes.

8 Q Explain when you would ask someone that
9 question why you would do such a thing?

10 A Why he tore it up and threw it in the road.

11 Q And then he said?

12 A Because my lighter didn't work.

13 Q Is that the answer you were expecting
14 someone to say when you say why would you do --

15 A In this job I don't expect a certain answer.

16 Q But you didn't have any emotional feeling
17 about the flag at this point?

18 A I can't speak of an emotional feeling back
19 then.

20 Q Do you have a feeling about people who burn
21 the flag?

22 A No relativity on this. I don't know what
23 my feelings are. I have nothing to say about my
24 feelings.

25 Q Your feelings do matter. I mean, were you

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1 angry? Do you think people should respect the flag?

2 A People can -- I have no feeling on it. That
3 has nothing to do with me carrying out my duties as
4 a law enforcement officer.

5 Q You started say people can what?

6 A I don't know what I was going to say. That
7 has no bearing on me being a police officer. I
8 mean, the way I feel about certain things.

9 Q But I'm curious though. Do you respect the
10 flag? I mean, do you love the flag? It's not a
11 tough question. Were you in the military?

12 A Yes.

13 Q I was too. I was in the Army for 25 years.
14 I love the flag. It will be on my coffin. I love
15 the flag. Do you love the flag?

16 A I like what it stands for.

17 Q What do you think when someone burns it or
18 rips it?

19 A I've never really thought too much into it.
20 I've never come across it in my life until this day
21 and this day I wrote him a littering ticket to start
22 out with and then I applied for a warrant under the
23 Missouri Statute.

24 Q And then I'm wondering what caused you to
25 change your mind?

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1 A Just somebody had brought it up that there's
2 that statute.

3 Q Did that seem more appropriate to you?

4 A It seemed to fit more than littering.

5 Usually I think of littering as somebody throwing
6 something out of a window driving down the street.

7 Q Like a McDonald's can?

8 A That would be a good example.

9 Q That's littering?

10 A I mean, that's a more common form of
11 littering, yes.

12 Q So there is no emotion in your decision?

13 A No. I would say no.

14 (Deposition Exhibit Number 3
15 marked for identification.)

16 Q (By Mr. Doty) Can you tell us what Exhibit
17 3 is?

18 A It's the flag that Mr. Snider had thrown
19 into the road.

20 Q And where were these pictures taken?

21 A In the break room of the police
22 headquarters.

23 Q Why did we take a picture of these?

24 A We typically take pictures of evidence
25 before we submit them in.

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1 Q So these are just evidence pictures?

2 A Right.

3 Q Is this part of the file on this case?

4 A Yes, it should be. I mean, it says it in
5 there that they were placed into evidence.

6 Q So you take the pictures. Now, you put the
7 flag into evidence?

8 A Right.

9 Q Where is that flag today?

10 A I don't know. I'm not in charge of the
11 evidence. We submit it into evidence and we have
12 custodians that take care of our evidence.

13 Q Did we return it to Mr. Snider, do you know?

14 A I have no idea where the flag is. You would
15 have to ask the evidence guy. It is Corporal
16 Bonham.

17 Q I mean, traditionally, if charges are
18 dropped, do you return evidence to people?

19 A That's not my -- I don't get into that. I
20 don't know what they do with it. It seems to be all
21 stored.

22 Q How do you spell Bonham, by the way?

23 A B-O-N-H-A-M. I believe he said he's tried
24 to contact Mr. Snider for the flags. I think he had
25 told me about it, but I don't know. I know he's

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1 tried to call him and he said his phone number that
2 he had been given was disconnected.

3 Q We will talk about training later though
4 with the chief, but I do want to know, from your
5 perspective in the receipt of training prior to
6 this, I know you reference the blue book as listing
7 the state statutes?

8 A Right.

9 Q Did you ever have a class, either in
10 preparation for becoming a police officer or
11 subsequent of being a police officer, regarding
12 First Amendment free speech rights of citizens?

13 A Not that I can recall. Not that I can
14 recall.

15 Q Did you ever have Fourth Amendment in your
16 training and then subsequent?

17 A Yes.

18 Q How often do you have training now in Fourth
19 Amendment?

20 A It seems like all the time. It seems like
21 every time something new comes out. We talked about
22 that earlier. It depends on what day of the week it
23 is. If there is some kind of change, we get updated
24 on it.

25 Q Is it oral updates? Someone standing in

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1 front or is it a memo?

2 A It could be anywhere from an organized class
3 to a training tip, which I believe you may cover
4 later, or just pass down orally. I mean, it all
5 depends.

6 Q So a change in the law. I mean, I
7 understand it would vary, but four times a year
8 perhaps, five times or even more?

9 A I don't know. Like I said, usually I know
10 there is a mandated time that we have to have, but
11 then I'm sure we go above and beyond that because
12 there are changes more often than that. I can't
13 even put a number on that.

14 Q I probably should have asked these questions
15 earlier. How long have you been a police officer?

16 A Two and a half years.

17 Q And you said you did you go from the
18 military straight to the academy or you took some
19 time off in between?

20 A There was some time between.

21 Q Were you an MP?

22 A No.

23 Q What branch, Army, Navy?

24 A Marine Corp.

25 Q So you were a general Marine? What are the

1 Naval Police?

2 A The Navy? As SP?

3 Q SPs?

4 A The Marines have an equivalent. We have
5 MPs.

6 A MP.

7 Q And you were not an MP?

8 A No.

9 Q And so what year did you start at SEMO?

10 A 2008.

11 Q How long does that take?

12 A I want to say it was early February until
13 the end of May.

14 Q So it is like three or four months?

15 A I think it is a 640 hour class. I don't
16 know if that is exact, but somewhere in there.

17 Q Do you have an Associate's Degree or
18 Bachelor's Degree?

19 A I have an equivalent in languages.

20 Q So we now talked about the Fourth Amendment
21 and updates, whether it be memos, oral or classes.
22 Let's talk about the Fifth Amendment. Do you have
23 classes on this?

24 A Yes.

25 Q Is it like the Fourth Amendment regularly?

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1 A Well, there is the mandatory time. I know
2 that there is mandatory training in it, but I don't
3 know. I don't know how often we get it.

4 Q Do you have a sense? I will not hold you to
5 it. More or less than the Fourth Amendment?

6 A I don't know. I can't put a number out
7 there.

8 Q But more than the First Amendment which is
9 zero?

10 A Yes.

11 Q More than zero?

12 A Yes.

13 Q We talked prior to getting into the station
14 and being brought to your attention about the
15 statute.

16 A Not prior to getting to the station.

17 Q I'm sorry. Prior to the station you were
18 thinking litter?

19 A Right.

20 Q Did you consider the flag, was it garbage,
21 was it refuse, was it rubbish? What was it at that
22 point to you?

23 A Torn up American flag.

24 Q But was it garbage?

25 A It was evidence.

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1 Q So it was evidence for the desecration?

2 A Well, before I got to the station or
3 afterwards?

4 Q Before you got to the station?

5 A Before it was evidence for the littering.

6 Q And was it garbage, yes or no? Was it
7 garbage?

8 A It depends on who you talk to. One person's
9 garbage is another person's prize. Right then it
10 had my feelings of what it was is it was evidence.
11 That's all it was.

12 Q But evidence of littering?

13 A Littering.

14 Q Was it garbage to you?

15 A I never thought of it. I have no idea.

16 Q Was it refuse?

17 A It was evidence. That's it.

18 Q Was it rubbish?

19 A It was evidence. That's it. So it was none
20 of those, it was just evidence.

21 Q Was it paper?

22 A No. I don't know if it was cotton or nylon.

23 Q Was it ashes?

24 A No. I don't see any burn marks.

25 Q Was it street cleaning? Was it a dead

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1 animal? Was it an abandoned auto?

2 A No.

3 Q Was it a wrapping? Was it a cigarette?

4 A No.

5 Q Was it animal or vegetable?

6 A It was cotton or nylon.

7 Q So it was a flag?

8 A Correct.

9 Q It was a flag that was desecrated, yes or
10 no? It was a flag that was desecrated?

11 A Yes.

12 Q I appreciate it.

13 MR. SPRADLING: We will waive his
14 signature.

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1 CERTIFICATE OF REPORTER

2 I, Linda DeBisschop, Certified Shorthand
3 Reporter, Notary Public within and for the
4 State of Missouri, do hereby certify that the
5 witness whose testimony appears in the
6 foregoing deposition was duly sworn by me; the
7 testimony of said witness was taken by me to
8 the best of my ability and thereafter reduced
9 to typewriting under my direction; that I am
10 neither counsel for, related to, nor employed
11 by any of the parties to the action in which
12 this deposition was taken, and further that I
13 am not a relative or employee of any attorney
14 or counsel employed by the parties thereto, nor
15 financially or otherwise interested in the
16 outcome of the action.

17

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20 Notary Public within and for
21 the State of Missouri

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